IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8897 OF 2004

B.V. Sonawane & Ors. .. Petitioners

V/s

State of Maharashtra & Ors. .. Respondents

Mr.S.S. Pakale for the Petitioners.

Mr.Patni, A.G.P. for the Respondents.

CORAM : H.L. GOKHALE &
S.P. KUKDAY, JJ.

DATE : 10TH JUNE 2005

P.C. :

1. Rule. Rule is made returnable forthwith.

2. Heard Mr.Pakale for the Petitioners. Mr.Patni, A.G.P. appears for the Respondents.

3. The Petitioners are some 8 employees workmen in the Government Milk Scheme at Pune. They have been working right from December 1971 onwards as can be seen in he case of Petitioner No.5. Petitioner No.1 is the juniormost amongst them who had joined in May 1979. All of them were working for quite long time on daily rated basis. Many of the employees of this Government Milk

Scheme had earlier filed a writ petition being Writ Petition No.3135 of 1998 and a Division Bench comprising of B.N. Srikrishna J., as he then was in this Court and Dr.(Mrs.) P.D. Upasani J. passed an order on 18th July 1998 that in view of the fact that they had admittedly completed more than 240 days of service, they should be regularised. The matter was carried to the Apex Court and we have seen the order dated 24th July 2001 in Civil Appeal No.3070 of 1999 where the position claimed by those Petitioners was conceded. The Apex Court observed that the view taken by the High Court was consistent with the stand arising out of the concession given by the State Government. The SLP was therefore dismissed. All such persons have been thereafter regularised.

4. The Petitioners, for reasons best known to them, remained behind. On their representation failing, they filed Original Application No.971 of 2002 to the Administrative Tribunal. This O.A. and other O.As. filed by some employees, who were similarly situated, came to be considered by the Administrative Tribunal. A reply was filed by the Respondents by pointing out that these persons were not party to the proceedings filed earlier. That apart, the Tribunal noted that there should be availability of the post and selection procedure should be followed. Therefore, the O.As.

came to be dismissed on 9th September 2004. The same are under challenge in the present petition.

5. Mr.Pakale, learned counsel for the Petitioners, submits that the Petitioners are similarly situated to those who had filed earlier petition. That is not disputed by the Respondents. That is not disputed even in the reply filed in this Court. The only defence taken is that they were not joined in the earlier proceedings.

6. In the circumstances, in our view, the petition deserves to be allowed and which we hereby allow with a direction to the Respondents and particularly Respondent No.4 - the Dairy Management at Pune and Respondent No.3 - Regional Dairy Development Officer at Pune to examine the claims of the Petitioners only from the point of view whether they are situated similarly to those who had filed the petitions earlier. It clearly appears that they have put in more than 240 days all throughout and have put in long years of service. In fact, in the reply filed by the State, it has been stated in para 6 that the issue is under consideration at the government level. This being the position, we expect Respondents Nos.3 and 4 to give a similar treatment to the Petitioners and extend the necessary benefits by taking

the consequent decision. We expect the scrutiny and decision to be taken within 3 months from the receipt of the order of this Court. Consequential actions with respect to release of the payments will follow the decision to be taken by the State. Petition disposed of.

(H.L. GOKHALE, J.)

(S.P. KUKDAY, J.)